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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 vs.

10 MARIA LARKIN,

11 Defendant.
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Case No. 2:12-cr-00319-JCM-GWF

ORDER

13 This matter is before the Court on the Government's Motion to Quash (ECF No. 285), filed
14 on June 1, 2017. Defendant filed her Response (ECF No. 289) on June 5, 2017.

15 IRS Supervisory Special Agent Joshua Bottjer and Special Agent Tiffany Lowe have been
16 subpoenaed by Defendant to appear and testify in her case-in-chief pursuant to Federal Rule of
17 Criminal Procedure 17(b). The Government requests that the Court quash the subpoenas as
18 unreasonable and oppressive under Federal Rule of Criminal Procedure 17(c)(2). The Government
19 argues that the testimony offered by either Special Agent would be cumulative, misleading, and
20 cause undue delay. Defendant argues that the Government incorrectly cites to the standard to quash
21 a subpoena duces tecum for the production of documents. She further argues that she has a
22 constitutional right to call witnesses with material and favorable testimony to her defense.

23 Rule 17(b) describes the procedure for defendants who are unable to pay the requisite
24 witness fees and permits an ex parte application by a defendant requesting that the court issue a
25 subpoena. The court will authorize issuance of a subpoena to a defendant who is unable to pay "if
26 the defendant shows an inability to pay the witness's fees and the necessity of the witness's presence
27 for an adequate defense." Fed.R.Crim.P. 17(b). Rule 17(c) establishes the process by which
28 federal courts can issue subpoenas duces tecum for the production of evidence before trial. The

1 Government has not sufficiently demonstrated that Defendant's subpoenas pursuant to Rule 17(b)
2 warrant being quashed. The Court, therefore, denies the Government's motion without prejudice to
3 the Government objecting to questions as cumulative, misleading, confusing, causing undue delay,
4 or on any other basis pursuant to the Federal Rules of Criminal Procedure and Federal Rules of
5 Evidence. Accordingly,

6 **IT IS HEREBY ORDERED** that the Government's Motion to Quash (ECF No. 285) is
7 **denied, without prejudice.**

8 DATED this 8th day of June, 2017.

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11 GEORGE FOLEY, JR.
12 United States Magistrate Judge
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